

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOSEPH A. PAKOOTAS, an
individual and enrolled member of the
Confederated Tribes of the Colville
Reservation; and DONALD L.
MICHEL, an individual and enrolled
member of the Confederated Tribes of
the Colville Reservation; and the
CONFEDERATED TRIBES OF THE
COLVILLE RESERVATION,

Plaintiffs,

And

STATE OF WASHINGTON,

Plaintiff-Intervenor,

v.

TECK COMINCO METALS, LTD.,
a Canadian corporation,

Defendant.

No. CV-04-256-LRS

**ORDER GRANTING
PLAINTIFFS PAKOOTAS,
MICHEL, AND THE STATE
OF WASHINGTON'S JOINT
MOTION FOR PARTIAL
RECONSIDERATION OF
ORDER GRANTING
DEFENDANT'S 12(b)(1)
MOTION, INTER ALIA**

This Matter having come before the Court on Plaintiffs' Joint Motion for Partial Reconsideration of Order Granting Defendant's 12(b)(1) Motion, *Inter Alia*; and the Court having reviewed the file and pleadings therein and being otherwise fully advised in the matter and counsel for Defendant having indicated it

**ORDER GRANTING PLAINTIFFS PAKOOTAS,
MICHEL, AND THE STATE OF WASHINGTON . . . - 1**

1 does not oppose Plaintiffs' Motion (Ct. Rec. 184), hereby orders that:

2 1. Plaintiffs' Joint Motion for Partial Reconsideration of Order Granting
3 Defendant's 12(b)(1) Motion, *Inter Alia*, is GRANTED.

4 2. The Court's September 19, 2008 Order Granting Defendant's 12(b)(1)
5 Motion, *Inter Alia*, is MODIFIED as follows: Plaintiff's Pakootas, Michel, and the
6 State of Washington's claims for civil penalties under the CERCLA citizens suit
7 provision, 42 U.S.C. § 9659, is dismissed WITHOUT prejudice.

8 **DATED** this 17th day of October, 2008.

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10 *s/Lonny R. Suko*

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LONNY R. SUKO
United States District Judge

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28 **ORDER GRANTING PLAINTIFFS PAKOOTAS,
MICHEL, AND THE STATE OF WASHINGTON . . . - 2**